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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 VINCENT PRICE MCCOWAN,) Case No. CV 15-04167-CAS (DTB)
12 Petitioner,)
13 vs.) ORDER DISMISSING PETITION
14 MS. TOMLINSON, ET AL,) WITHOUT LEAVE TO AMEND
15 Respondents.)
16

17 Petitioner purported to file a Petition for Writ of Habeas Corpus by a Person in
18 State Custody herein (“Pet.”) on June 3, 2015. The Court has reviewed the Petition
19 pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States
20 District Courts (“Habeas Rules”) for purposes of determining whether “it plainly
21 appears from the petition and any attached exhibits that the petitioner is not entitled
22 to relief.”

23 From the face of the Petition, it appears that petitioner’s claims are not directed
24 to the legality or duration of a current confinement. Rather, petitioner appears to be
25 raising claims alleging violations of his civil rights. Specifically, insofar as the Court
26 can glean, petitioner raises claims alleging a denial of access to the law library and
27 “racial prison distribution, against black inmates.” (Pet. at 4.)

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1 Claims such as these may not properly be asserted in a habeas petition, or as
 2 part of a habeas petition. See 28 U.S.C. § 2254(a); see also Preiser v. Rodriguez, 411
 3 U.S. 475, 498-500, 93 S. Ct. 1827, 36 L. Ed. 2d 439 (1973). Rather, such claims must
 4 be asserted in a separate civil rights action.

5 The Court does have discretion to construe petitioner's habeas petition as a civil
 6 rights complaint. See Wilwording v. Swenson, 404 U.S. 249, 251, 92 S. Ct. 407, 30
 7 L. Ed. 2d 418 (1971); Hansen v. May, 502 F.2d 728, 729 (9th Cir. 1974). However,
 8 in this instance, the Court chooses not to exercise such discretion for the following
 9 reason:

10 As the current action was not submitted on a civil rights complaint form, certain
 11 critical information, such as the capacity in which the defendants are named, is
 12 lacking.

13 Accordingly, pursuant to Rule 4 of the Rules Governing Section 2254 Cases in
 14 the United States District Courts,

15 IT THEREFORE IS ORDERED that this action be summarily dismissed
 16 without prejudice. The Clerk is directed to send petitioner a blank Central District
 17 civil rights complaint form, which petitioner is encouraged to utilize should he desire
 18 to pursue this action. To the extent petitioner seeks to separately challenge the legality
 19 or duration of his confinement, he is encouraged to utilize the Central District form
 20 Petition for Writ of Habeas Corpus. As a precaution, the Clerk is also directed to send
 21 petitioner a blank Central District Habeas form as well.

22 LET JUDGMENT BE ENTERED ACCORDINGLY.

23 DATED: June 12, 2015

Christina A. Snyder

CHRISTINA A. SNYDER
 UNITED STATES DISTRICT JUDGE

25 Presented by:

David T. Bristow

26 David T. Bristow
 27 United States Magistrate Judge
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